

Remarks

This amendment responds to the official action of March 6, 2009.

In the official action, objections were made to the drawings under 37 C.F.R. §1.183(a) for alleged lack of an illustration of the "undercut slot" and the "hose guide" as claimed; the terms "undercut slot" and "somewhat perpendicular surface" were considered indefinite under 35 U.S.C. §112, second paragraph.

Claims 1-6 and 14-16 were considered anticipated under 35 U.S.C. §102(b) by US 5,277,391 – Haug.

Each of the remaining claims were rejected as obvious under 35 U.S.C. §103 over Haug in combination with one of US 5,833,192 – Buhrman; US 4,726,552 – Warshawsky; US Des. 385,333 – Caroen; or US 4,274,400 – Baus.

Reconsideration is requested. The claims have now been amended to more particularly and distinctly define the subject matter of the invention and better to distinguish over the prior art of record. Independent claim 1 now incorporates subject matter from original claims 1, 2, 4, 5 and 6. The prior art does not disclose the invention claimed as a whole and is not shown to demonstrate that the invention would have been obvious to a person of ordinary skill.

The claims as amended obviate the objections to the drawings and the rejection on grounds of indefiniteness. No new matter is presented.

Regarding the objection to the drawings, the invention as claimed and as described, for example, at page 3, lines 7-22 (paragraphs [0011] and [0012] as published) is illustrated in the drawings, as required by Rule 1.83(a). Among other aspects, the invention comprises one or more wall supports 6 that carry a wall rod 1, and a mounting bracket 20 that extends the wall rod and preferably is arranged to rotate on a bearing connection 2 relative to the wall support. As shown by the cross-section line hatching in Fig. 1, the rear facing side of mounting bracket 20 is open, thereby defining a slot along the length of the mounting bracket up to the conical end

part 22. The configuration as shown and claimed permits the user to removably place a shower head (not shown) into the end part 22 such that the hose that leads to the shower head lies in the rear-facing slot in bracket 20. The hose (not shown) is guided by the slot, and can loop downwardly, but is carried in the slot while along the mounting bracket, and resides in the area between pipe 1 and the wall to which the base plate 7 is connected while below the mounting bracket. As described in the specification, this arrangement avoids having a loop of shower hose depending directly downwardly from the shower head, where the hose would disturb the person taking a shower.

Thus it can be seen that the drawings illustrate a slot, namely the open back of mounting bracket 20. The drawings also illustrate the hose guide, which in addition to the slot includes the space that serves to guide a depending hose, in the area of brace 18 between base plate 7 and lower section 11 as shown in Fig. 3.

Claim 1 as amended to include the subject matter of claims 2 and 4-6 uses the term "slot" rather than "undercut slot" as was recited in original claim 6. This change overcomes the objections under Rule 1.83(a) and 35 U.S.C. §112, second paragraph. There is no issue as to interpreting the meaning of a "slot" and one can immediately find the slot illustrated in the drawings. The expression "undercut slot" refers to a slot wherein the lateral space behind the slot is wider than the opening of the slot. In that event, the shower hose might have an outside diameter that is equal to or slightly wider than the undercut slot, with the effect being to detain the shower hose resiliently when placed in the slot. That configuration is optional and within the scope of the claims as amended, but "undercut" is no longer stated as a claim limitation. This overcomes the objection to the drawings and to the definiteness of the claims regarding the term "undercut slot." No new matter is presented. Inasmuch as the prior art lacks a mounting bracket as claimed, the claims as amended distinguish over the prior art.

Applicant has also amended claim 1 to recite that the wall rod is to be fixed on a substantially perpendicular surface instead of a "somewhat" perpendicular one.

The term "substantially" is definite in this context. In the exemplary embodiment, the device is mounted on a vertical wall. There is no requirement that the wall be precisely vertical in order for the device to function as required, including to hold the hose and to guide the hose, free from the zone occupied by the person who is showering.

Regarding a hose guide, the description indicates that the hose is guided along the slot in mounting bracket 21, which locates the depending loop of hose along brace 18 between the wall rod 1 and the base plate 7 of the wall support that spaces the wall rod from the wall, thereby guiding the hose along the wall.

As described and seen in context, the claims are definite and the aspects recited in the claims as amended are duly illustrated. Applicant requests withdrawal of the objections to the drawings and the rejections on grounds of definiteness.

Claims 1-6 and 14-16 were considered anticipated by US 5,277,391 – Haug. Reconsideration is requested. It is an aspect of the claimed invention that the mounting bracket 20 is a continuation extending the wall rod. In the illustrated embodiments, the mounting bracket continues and extends the wall rod upwardly and forwardly from the upper end of the wall rod. There is no disclosure in Haug '391 of an arrangement that is even similar to the structure claimed. Haug '391 concerns a shower head receptacle that is movable along the length of a wall rod and is arranged in a height adjustable manner to cause the shower head to spray to the side or diagonally downwards from some point along the wall rod. Although Haug '391 has some features in common with applicant's additional mounting bracket 30 in Fig. 2, which provides an alternative location for placing a shower head to function as a side shower, there is no disclosure or suggestion of a structure that resembles the subject matter recited in claim 1 as amended. In claim 1, the mounting bracket continues and extends the wall rod, i.e., provides an elongation at the upper end of the wall rod. Such subject matter is not disclosed by Haug. Therefore, applicant requests that the rejection of claim 1 on grounds of anticipation be reconsidered and withdrawn. Furthermore, there is no basis to consider the subject matter of claim 1 to

be obvious as a whole. Claim 1 is allowable. The remaining pending claims depend directly or indirectly from claim 1 and are allowable at least for that reason.

Claims 7 and 8 were rejected over Haug combined with US 5,833,192 – Buhrman. However, neither Buhrman nor Haug discloses or remotely suggests a device with a mounting bracket that is the extension of the wall rod and has a cone fitting for the shower head and a slot for the hose as claimed. According to the official action, Buhrman is cited for a double bent wall support. The Examiner refers to illustrated elements 42, 44 of Buhrman. However, elements 42, 44 of Buhrman define a right angle at which the bottom of the wall rod is supported relative to the wall (see Buhrman Fig. 3). It is unclear how Buhrman's 90° elbow is considered a double bend. One can compare applicant's Fig. 3, wherein the tangential coupling of brace 18 to lower section 11 and the right angle attachment of base plate 7 to brace 18 are two bends, which serve to define a space between the wall bar and the wall. Inasmuch as the prior art lacks a similar structure or function, whether considered separately or in combination, claims 7 and 8 are allowable on their own account and also due to their dependence on claim 1 as amended.

Claims 9-11 and 17 were considered obvious over Haug and US 4,726,552 – Warshawsky, the latter cited for wall support 80/90 with swivel bearing 140. Warshawsky discloses a lamp fixture wherein multiple bulbs are arranged to swivel relative to an axis of a swivel fitting 80 that is cantilevered on arm 90 from a base post 18. However, the swivel is not provided on the supporting post 18. There is no apparent relationship between Warshawsky's lamp and a shower rod support with a mounting bracket (no shower head, no hose, no wall support, no wall, etc.). Even assuming that one might cite a disclosure of a swivel fitting as an isolated mechanical structure, there is no articulated justification of record to explain how a person of ordinary skill might progress, step by step, from Haug and Warshawsky to the claimed invention, while practicing the subject matter of the prior art and exercising routine knowledge and common sense. There is no support of record for a rejection

of claims 9-11 and 17 under 35 U.S.C. §103. These claims are allowable of their own account and also based on dependence from claim 1.

Claims 12 and 18 were rejected over Haug in combination with US Des. 385,333 – Caroen, cited for a hose guide. However, neither Haug nor Caroen discloses or suggests a mounting bracket that extends as a continuation from the wall rod, especially with a curve away from the wall that locates the shower head above the showering person and at a distance from the wall, and preferably with a swivel connection. Thus, the proposed combination of Haug and Caroen does not touch on the issue of how to manage the shower hose so as not to interfere with the person who is showering. Caroen has a clip at the lower end of the wall rod at which the hose can be fixed at a distance from the shower head, but it is unclear how the hose would ever interfere with the showering person in such an arrangement. Haug and Caroen in combination not only fail to provide the structures that would be needed for a combination that reaches the claimed invention. Haug and Caroen fail to even relate to similar problems. There is no articulated basis of record to justify rejection of claims 12 and 18. These claims are allowable for their own recitals and also for dependence from claim 1. Claim 1 and the claims depending from claim 1 including claims 12 and 18, are shown to have been obvious to a person of ordinary skill practicing the subject matter of the prior art and exercising routine knowledge and common sense.

Claims 13 and 19 were rejected over Haug in combination with US 4,427,400 – Baus, the latter cited for having multiple mounting brackets. Baus has a mounting for an overhead shower head 14 and a double-headed side shower head 6 (see Figs. 1 and 2). The combination of Haug and Baus does not meet the invention claimed as a whole and there is no basis of record to consider the invention obvious. Neither reference nor any routine combination comprises a mounting bracket that continues and extends the wall bar upwardly, swivels relative to the axis of the wall bar, and has a slot that manages the hose in the manner claimed. On the contrary, Baus can be seen to illustrate that even if the person of ordinary skill uses a shower head

wherein the hose is coupled to the shower head near the wall rod, the depending loop of shower hose interferes with the space that is occupied by the showering person (See Fig. 2).

There is no basis of record to support the proposition that the subject matter of claim 1 would have been known or obvious to a person of ordinary skill who sought to apply the teachings of Haug, alone or in combination with the other prior art references. Therefore, claim 1 is allowable. If the person of ordinary skill considered modifying Haug to incorporate any or all aspects of Buhrman, Warshawsky, Caroen and/or Baus, there is no reason to expect that the result would be applicant's invention as defined in claims 1, 3 and 7-19. Moreover, there is no basis stated of record to show how such a combination could result in the invention claimed as a whole.

The claims as amended are definite and their subject matter is properly illustrated in the drawings. The differences between the invention and the prior art are such that the subject matter claimed as a whole is not shown to have been known or obvious.

Therefore, applicant requests reconsideration and allowance of the pending claims.

Respectfully submitted,

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